

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

LEA CAIN)	
)	Cause No: 3:19-cv-01385-RJD
Plaintiff,)	
)	JURY TRIAL DEMANDED
v.)	
)	
HIMANSHU "SAM" PATEL,)	
And ATHENEON, ILLINOIS, INC.)	
d/b/a MOTEL 6,)	
)	
Defendants.)	

RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE
DEFENDANTS' REQUESTS TO ADMIT

On March 10, 2021, Defendants served its Requests to Admit (Doc. 42) on Plaintiff pursuant to Fed.R.Civ.P. 36. Plaintiff has now moved to strike Defendants' Requests to Admit (Doc. 46) on the basis that the Requests were filed two (2) days after the close of discovery. With all due respect, the Court should deny Plaintiff's Motion because Defendants' Requests to Admit are not discovery.

A Request to Admit is not discovery when it is used "to establish admission of facts about which there is no real dispute." *Kelly v. McGraw-Hill Companies, Inc.*, 279 F.R.D. 471, 472 (N.D. Ill. 2012); *citing* 7 Moore's § 36.02[1] (footnotes and numerous citations omitted). A Request is discovery only when used to elicit facts and information and to obtain production of documents. *Id.*

The Defendants' two (2) Requests to Admit do not seek to discover new facts; they contain facts already learned through discovery. For example, Request to Admit No. 2 asks Plaintiff to admit that she "has not worked more than forty (40) hours at Motel 6 in any week since May 27, 2019" (the effective date of her demotion). In her deposition, Plaintiff admitted

there were "no times after she was demoted back to a GSR in May of 2019 that [s]he worked more than 40 hours a week in any week". Cain Deposition at 60 lines 6-10; a copy of which attached hereto as Ex. A. There is no dispute regarding these facts.

Defendants' Requests to Admit do not seek to discover information but to streamline proof for trial if trial is necessary. For this reasons, the Court should deny Plaintiff's Motion to Strike.

Respectfully submitted,
Himanshu "Sam" Patel and Atheneon
Illinois, Inc. d/b/a Motel 6, Defendants

By: /s/Shari R. Rhode

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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2021, I served a copy of the foregoing Response in Opposition to Plaintiff's Motion to Strike Defendants' Requests to Admit using the CM/ECF system which will send notification to:

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/s/ Shari R. Rhode

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